

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 22nd April, 2008

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Public Accounts Committee on the Government of Kenya Accounts for 2000/2001.

Report of the Public Accounts Committee on the Government of Kenya Accounts for 2001/2002.

(By Mr. Ethuro)

Report of the Public Accounts Committee on the Government of Kenya Accounts for 2002/2003.

Report of the Public Accounts Committee on the Government of Kenya Accounts for 2003/2004.

(By Mr. Twaha)

NOTICES OF MOTIONS

ADOPTION OF 2000/2001 AND 2001/2002 PAC REPORTS

Mr. Ethuro: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Reports of the Public Accounts Committee on the Government of Kenya Accounts for 2000/2001 and 2001/2002, laid on the Table of the House on 22nd April, 2008.

ADOPTION OF 2002/2003 AND 2003/2004 PAC REPORTS

Mr. Twaha: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Reports of the Public Accounts Committee on the Government of Kenya Accounts for 2002/2003 and 2003/2004, laid on the Table of the House on 22nd April, 2008.

Mr. Deputy Speaker: Next Order!

ORAL ANSWER TO QUESTION

Mr. Mbau: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to bring to your attention the fact that I have not received a written reply. You will remember that a week ago, I asked the Question, but I did not receive a written reply. It was deferred to be answered the following day, but I did not receive a written reply from the Minister.

Question No.012

UPGRADING OF MARAGWA- GATHERA-IREMBU ROAD

Mr. Mbau asked the Minister for Roads:-

- (a) whether he could confirm that survey and design works on Maragwa-Gathera-Irembu Road has been completed after the road was included in Development Budget for 2006/2007; and,
- (b) when this high potential road will be upgraded to bitumen standards.

Mr. Deputy Speaker: I am made to understand that the written reply is somewhere in the House.

Mr. Mbau: It is not in my hands!

Mr. Deputy Speaker: Order! You do not speak when the Chair is on its feet, hon. Member!

Proceed, Mr. Assistant Minister!

The Assistant Minister for Roads (Dr. Machage): Mr. Deputy Speaker, Sir, I beg to reply.

- (a) I confirm that survey and design work on Maragua-Gathera-Irembu Road has not been completed. However, the Ministry is in the process of procuring a consultant to carry out this work.
- (b) This road will be considered for upgrading to bitumen standards when the designs are complete, along with other roads.

Mr. Mbau: Mr. Deputy Speaker, Sir, that answer is satisfactory. I want to thank the Assistant Minister. However, I would want to notify him that this is a specific Question, requiring a specific answer. Therefore, it would not be wise for him to tell me that the road will be considered for upgrading to bitumen standards along with other roads. I would like him to confirm that, that particular road I have asked about is the one he is referring to. Could he also confirm that it will be done in the next financial year?

The Assistant Minister for Roads (Dr. Machage): Mr. Deputy Speaker, Sir, I specifically answered the Question as it appears on the Order Paper. However, let the House know that the hon. Member visited the Ministry and had a few queries answered on some other roads which, maybe, he has forgotten today. He had talked about a road to Saba Saba and Kamahuha. May I, therefore, take it from the Floor of the House that he has retracted that request to the Ministry?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, in most productive parts of this country, which are considered to be the grain basket for the country, feeder roads are impassable. In most cases, especially during the rainy season, farmers are forced to pour down milk. Is there a clear-cut policy by the Government to ensure that feeder roads are tarmacked? In the 1960s, the Government of Kenya had a policy of ensuring that roads which serve highly productive areas were tarmacked. Does the current Government have a clear-cut policy to ensure that roads in highly productive areas are given priority and tarmacked?

Dr. Machage: Mr. Deputy Speaker, Sir, whereas this is completely a different Question, may I remind the hon. Member that there is a District Roads Board in all the districts in this

country, which would advise the Ministry from the grassroots on the priorities of roads maintenance and construction in all parts of the country. If the hon. Member has a road that he thinks should be prioritised in his area, he should let us know through the District Roads Board.

Mr. Bahari: Mr. Deputy Speaker, Sir, roads being a very important element of infrastructure, they are a catalyst to development. Many provinces and regions of this country do not have a kilometre of tarmac road. You know very well that this country is one of the countries with a high level of unequal distribution of resources in the world. We have earned that bad name.

What plans has the Ministry put in place to ensure that those areas which have not had a kilometre of tarmac road since Independence will be provided with budgetary provisions to ensure that we have tarmac roads in those areas?

Dr. Machage: Mr. Deputy Speaker, Sir, my Ministry is very much aware that there are regions in this country that have not been well endowed with road infrastructure. We are addressing that issue and we believe that with the new Ministers in the Ministries, the problem will be addressed adequately.

Mr. Mbadi: Mr. Deputy Speaker, Sir, there is a problem that I wanted to bring up following the Assistant Minister's response about the District Roads Boards. We realise that there is money that the Ministry allocates for the maintenance of roads. You will find that in some constituencies, like my constituency, there is not even a road to maintain.

Does the Ministry have a plan of, first, constructing the roads, so that we can have something to maintain? During the last District Roads Board meeting that I attended, my constituency was allocated about Kshs15 million. The roads in my constituency are completely impassable. It was even reported in the media, although we are not supposed to quote the media, that I was stuck in my constituency throughout the night. I had to be rescued by the villagers from Ruma National Park. Roads in this park are completely impassable at the moment.

I do not know what the Ministry is planning to do so that we have roads to maintain rather than allocating little money to maintain roads which are not even there.

Dr. Machage: Mr. Deputy Speaker, Sir, I have listened with a lot of pride that the hon. Member's constituency has been allocated Kshs15 million for roads maintenance. They should use that money to open up the roads, so that I can have also other roads to maintain. It is important that he uses that money. If he does not, I will take that money and give it to another hon. Member, who may decide to use it well.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that the Assistant Minister is correct in demanding that the hon. Member should take action, when we know that we have the Executive arm of the Government which is represented by the Ministries at the district level, which are supposed to ensure that these things are done, and not the Members of Parliament? Is he in order to suggest that the hon. Member should go and collect this money?

Mr. Deputy Speaker: Mr. Assistant Minister, you are out of order! The money that is allocated for the constituency is for maintenance. The hon. Member is saying that he does not have roads to maintain. Could you answer the question?

Dr. Machage: Mr. Deputy Speaker, Sir, the definition of a road is subjective. I am sure there is a place which he passes through in the different areas of his constituency. He should develop those roads. However, whereas it is true that there might be no roads to be maintained in some areas, like the hon. Member has said, my Ministry has taken cognisance of the fact that there is inadequate distribution of this resource in some areas. We are doing our best.

The hon. Member is a member of the District Roads Board. He should, please, advise and guide the Board on the most appropriate road to use this money on.

Mr. Twaha: Mr. Deputy Speaker, Sir, I wonder if the Assistant Minister is aware that the Secretary of the District Roads Board is also the District Roads Engineer. If there are any issues which are unfavourable to him where his performance has been reprimanded, he will not have those remarks recorded in the minutes. Even if you raise the issue in the subsequent meetings, they

also do not get recorded. So, our hands are tied as hon. Members.

We have also beholden to these engineers because they are also the ones who prepare the bills of quantities for the Constituencies Development Fund (CDF) projects. If you are too tough on them, the CDF projects will stall.

I would like to request the Assistant Minister to arrange to have two engineers, namely, a CDF engineer and a roads engineer, so that they can be accountable. Right now, we are holding onto them because they are also in charge of our CDF projects. If we are too tough on them, our CDF projects will fail.

Dr. Machage: Mr. Deputy Speaker, Sir, it is very disturbing to hear the report as given to the House by the hon. Member. If that is happening in his or in any other hon. Member's constituency, we should have that report in our Ministry headquarters in writing and we will take the appropriate action.

Mr. Twaha: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed, Mr. Minister!

Dr. Machage: Mr. Deputy Speaker, Sir, the management of the District Roads Board and the management of the CDF money is actually well articulated in the Act that governs these finances. If they are inadequate, I would plead with the hon. Member to bring an amendment to this Act to this House. I will be happy if the Act would be able to give him the sort of response he would want.

Mr. Muriithi: Thank you, Mr. Deputy Speaker, Sir. I would like to join my colleagues in discussing matters to do with roads. Whereas the hon. Members are speaking about disparity in other regions, I want to speak specifically for my constituency, which contributes a lot in terms of milk production in this country. We do not have a single kilometre of tarmac, except the road from Nyahururu to Gilgil.

During the rainy season, we have a lot of potatoes. At the moment, there is famine in some parts of the country, but in Ol Kalou, we have a lot of potatoes that cannot leave the farms because of bad roads. Even the roads that have been allocated money, for example, the road from Busara all the way to Charagita, and the road from the Kenya Agricultural Research Institute (KARI) to Ngano, which have been allocated huge amounts of money. I went there and I found out that these people are putting soil---

Mr. Deputy Speaker: What is your question, Mr. Muriithi?

Mr. Muriithi: Mr. Deputy Speaker, Sir, what is the Assistant Minister doing to make sure that when these resources are given, their usage is supervised properly and the roads are properly graded, so that the farm produce can be transported to the market and to the areas where they are needed with ease?

Dr. Machage: Mr. Deputy Speaker, Sir, indeed, the Ministry is concerned with proper utilisation of the resources that are allocated to road maintenance and construction. We have regular returns from the officers on the ground on how these resources are utilised. If there is a particular area where an hon. Member feels that the resources have not been well utilised and I have not been informed, please, let me informed and I will take the appropriate action.

Mr. Olago: Mr. Deputy Speaker, Sir, I have noticed that the Assistant Minister has misled this House in two respects. First, he has told this House that in every constituency, there is a Roads Board. That is clearly wrong. What we have in every constituency is the District Roads Committee. There is only one Roads Board in Kenya. Secondly, he has admitted what the hon. Member has said that in some constituencies there are no roads. The allocation by the Roads Board to each constituency is fixed and equal. What happens to allocations in constituencies where there are no roads?

Dr. Machage: Mr. Deputy Speaker, Sir, the first information by the hon. Member is right. Secondly, we have roads everywhere in this country. It is only that some roads in some areas are poorer than in other areas. Like I said, the definition of a road is subjective.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, a lot of money has been used by the Government for survey and design works. From time to time, money is allocated for design works and yet those roads are never constructed. Over time, the demography is also interfered with.

Could the Assistant Minister confirm here that when a road has been surveyed and design work completed, the Ministry has a mechanism to ensure that, that road is repaired, so as not to spend more money on design works again?

Dr. Machage: Mr. Deputy Speaker, Sir, indeed, that is what the Ministry wants and is focusing to. All the projects that have been done are always valuable and are always maintained.

Mr. Chanzu: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the Ministry lacks capacity in most of the areas, for example, in Vihiga District? As a result, the figures that we receive from the District Roads Committees are guesswork. What is the Assistant Minister doing to remedy that situation?

Dr. Machage: Mr. Deputy Speaker., Sir, that is completely a different Question. If the hon. Member puts it in a different way, I may look for that data and either accept it or refuse it. But as I am aware, we have enough manpower on the ground to give proper statistics.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am concerned that a road that was budgeted for in 2006/2007 has not been done. The Assistant Minister agrees that the survey and design works are yet to be completed. We are towards the end of the second financial year. You are aware that the Government instituted performance contracting.

Mr. Deputy Speaker, Sir, is the Assistant Minister satisfied that the officers in his Ministry are doing justice to provisions of the Budget? I expect that works within a particular Budget must be completed within that particular year.

Dr. Machage: Mr. Deputy Speaker, Sir, this road was allocated Kshs10 million in the 2006/2007 Financial Year. The Maintenance Levy was used for spot improvement of the road. During this financial year, we allocated Kshs5 million of the Development Budget on the same levy. The consultancy that is being sought for will be complete in two months' time. Once we have that report, we will embark immediately on the real work, which will not take more than eight months. I do not think we are late on this project.

Mr. Shakeel: Mr. Deputy Speaker, Sir, may I ask the Assistant Minister to kindly advise us on why a certain proportion in the District Roads Fund (DRF), which used to be 24 per cent, has been reduced to 12 per cent. At the same time, another proportion allocation which was 16 per cent has now been increased to 20 per cent. However, when you look at the net loss, we lost 12 per cent and gained 4 per cent. Therefore, the net loss to the district is 8 per cent.

Secondly, could he kindly table before the House a list of blacklisted contractors, so that we could know which contractors are blacklisted and which ones are suspended?

Dr. Machage: Mr. Deputy Speaker, Sir, I will endeavour to answer the first question. It is 20 per cent on both issues. It is not 16 per cent and 24 per cent. So, correct your information.

On the second question, I beg not to answer because it is a completely different question.

Mr. Mbau: Mr. Deputy Speaker, Sir, I think it is in order to commend the Assistant Minister for making a spirited effort to answer supplementary questions by hon. Members that were not raised in the main Question. I think he has done a good job.

I also want to thank him for capturing the spirit of the other road that was not specifically mentioned in the Question. It was occasioned by a recent event when we had to lay to rest one of our late colleagues, Mr. Mwenje. Hon. Members and other friends who attended that funeral were unable to access the venue because of the bad state of the road. However, I have since then raised that matter with the Ministry and I am glad to note that the Assistant Minister has captured that. It is going to be one of the roads that is going to be surveyed and considered for upgrading to bitumen standards along with other roads. Therefore, I commend the Assistant Minister!

Mr. Deputy Speaker: Next Order!

MOTIONADOPTION OF 2000/2001 AND
2001/2002 PAC REPORTS

Mr. Ethuro: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, this House adopts the Reports of the Public Accounts Committee (PAC) on the Government of Kenya Accounts for the years 2000/2001 and 2001/2002 laid on the Table of the House on 22nd April, 2008.

On behalf of hon. Members of PAC that looked at the Reports on the Kenya Government; reports that are audited by the Controller and Auditor-General and brought to the attention of PAC on behalf of the whole House--- We were 11 of us. The Chairman was Mr. Uhuru Kenyatta. The Vice-Chairman was Mr. Kipchumba. Other Members included Mr. N.M. Nyagah, Mr. M'Mukindia, Mr. Kembi-Gitura, Ms. Mwau, Mr. Wamwere, Mr. Ethuro, Mr. Keter, Mr. Opopo and Billow. Out of the 11 hon. Members, only three of us survived! Out of the three, one is a Cabinet Minister and the other is an Assistant Minister. So, I am the only survivor in the Back Bench.

(Applause)

I think it is important to mention that so that hon. Members can understand why I am here. However, I want to pay special tribute to those hon. Members for a job well done. The commitment that they had, even during the time when hon. Members were usually on recess or doing other business--- That particular Committee had the desire to ensure that the reports of the Controller and Auditor-General were brought up to date, to a period of about one or two years. Therefore, in 2003 we decided to tackle two reports per every year. That was a dramatic departure from the previous years. I think the future Members of that Committee need to borrow from that and continue implementing that initiative, so that the House will be discussing matters that are relevant, topical and the memory will not have been lost.

Mr. Deputy Speaker, Sir, in considering the Report of the Controller and Auditor-General, we were guided by the Standing Orders of this House. But because we have a new House, it does no harm to make specific reference to the Standing Orders that have given us the mandate to do that business on behalf of the House. That is found on Standing Order No.147. That is where PAC, as one of those old institutions of democracy to play the role of oversight on behalf of the people, has discharged its responsibilities.

One of the important oversight functions of Parliament through the PAC is, therefore, a key control on the deviations of the Executive. The Committee's workload was quite heavy, as I said earlier. It is, therefore, important to recognise that, that particular Committee, which commenced its work on 2nd September, 2004, held 83 sittings. The Committee noted that most of the queries contained in the 1999/2000 Report were also part of the report in 2000/2001. Similarly, most of those queries, and this should worry and concern hon. Members, contained in the 2000/2001 Report were also part of the report of 2001/2002. It, therefore, means that all the work that the Committees do, and this particular Committee on behalf of the House, the Executive does not respond to it either deliberately, or just by sheer lack of interest in governance.

The Committee also decided that it was not going to rely on the Controller and Auditor-General's reports only. They took specific opportunities. Every three months or so, we would conduct a local tour just to satisfy ourselves on what had been stated in the reports. We visited Moi-Chepterit Road and the Ministry of Roads and Public Works office building in Eldoret Town. We also went to Elgeyo Saw Mills and the Kericho-Chemosit Road. The observations and recommendations of the Committee on the areas visited are contained in the specific audit queries. All the recommendations made by the Committee were arrived at by consensus and after very

thorough objective and constructive deliberations.

Mr. Deputy Speaker, Sir, there was careful scrutiny of evidence adduced before the Committee, submissions that were received, as well as the information that we received during the inspection tours. The Committee, therefore, urges the House to adopt these recommendations. It also requests the Government to implement them without fear or favour. We are talking of the Coalition Cabinet and Government. I hope the grand idea will be reflected in the implementation of these recommendations.

Mr. Deputy Speaker, Sir, transparency and accountability should be encouraged in all Government Ministries and institutions in order to ensure that corruption is eradicated forever in this country. When corruption ceases to exist in Government institutions, it will be easy to root it out in the private institutions. The Committee noted that if the Accounting Officers adhered to the laid-down financial regulations and procedures by the Government, then most of these queries would not have risen, in the first place.

Mr. Deputy Speaker, Sir, this Committee also, in its endeavour to have a regional outlook, and in pursuit of the East African common objectives, affiliated ourselves and we are the very founder members of the Eastern Africa Association of Public Accounts Committees (EAAPACs). Allow me, therefore, to use this opportunity to make a brief description of the history and the background of the EAAPACs. The formation of this organisation was identified at a workshop we held in Mombasa between 20th and 22nd February, 2004. It was noted that there is need to network with a view to sharing these practices where appropriate and harmonising and standardising the work of the Public Accounts Committees (PACs) in the region. A need, therefore, to establishing an organisation that will guarantee and ensure that the PAC members are empowered to effectively carry out their functions and oversight role over public sector finances and promote accountability and good governance became extremely paramount. It was from this background that the EAAPACs was formed.

Mr. Deputy Speaker, Sir, the main objectives of the organisations are as follows:

(i) To improve the capacity of the individual members of the PAC to function more effectively.

(ii) To improve the effectiveness of the PACs in the East African region.

(iii) To share these practices and innovations, and where appropriate harmonise and standardise the work of PACs in the East African region. We realised that we cannot work in isolation. There is need for us, as a region, to learn from each other.

(iv) To promote accountability, transparency and good governance.

(v) To conduct research on the needs, practices and innovations in order to improve and enhance the effectiveness of the PACs in the region.

(vi) To communicate and do relationships with individuals and organisations with relevant expertise, both nationally and internationally.

(vii) To empower the members of the association to be able to disseminate the information on the work and activities of the PAC, among elected representatives in the media and the general public.

(viii) To strengthen the relationship with the appropriate East African Community (EAC) structures and those of other neighbouring countries.

Mr. Deputy Speaker, Sir, according to the EAAPACs constitution, membership is open to all members of the PACs in the region. It includes the Parliaments of Tanzania, Uganda, Rwanda, Burundi, Ethiopia, Eritrea, Somalia, Djibouti, Sudan and Kenya. Included also in the list is the East African Legislative Assembly (EALA). The regional body of the PAC is also affiliated to similar organisations such as the Association of Public Accounts Committees of South Africa and Southern Africa Development Organisation of Public Accounts Committees, amongst others.

Mr. Deputy Speaker, Sir, this regional body was able to hold its first Annual General Meeting (AGM) and conference in Dar es Salaam in July, 2005. It was resolved that subsequent

conferences shall be held in member countries on a rotational basis. A second AGM and conference was held in Nairobi in July, 2007, and resolved to hold the next one in Kampala, Uganda, in April this year. I am informed that the plans for this conference are at an advanced stage.

Mr. Deputy Speaker, Sir, on the executive committee of this organisation, the current committee comprises the PAC Chairpersons of the member countries. The said committee has a chairperson presently held by a Ugandan and a deputy chairperson by a Tanzanian and a treasurer by Rwanda. The secretary-general is hosted by Kenya and a deputy secretary-general is held in Burundi.

Mr. Deputy Speaker, Sir, before I turn to the specific observations in the Reports, I wish to recognise the support we got from the Clerk of the National Assembly and the staff led by Mrs Munga and Mr. Ariwomoi. Our work would not have been possible if it was not for the dedication of efficient officers of Parliament, who spent hours and hours looking at the reports, raising the issues that are important and thus becoming a living institutional memory for those members who were not previously in the Committee. With their guidance and technical support, we were able to bring to the House a Report that we think will be extremely useful to the House.

Mr. Deputy Speaker, Sir, we also wish to record our appreciation for the services rendered by the officers of the Controller and Auditor-General. These officers have remained independent throughout the history of this country, even at times when our political system was compromised. It is gratifying to note that some professional Kenyans always held the moral authority to be able to make specific recommendations on the public accounts. I think this House owes them very serious and grateful thanks in terms of discharging our constitutional obligations as Members of Parliament.

Mr. Deputy Speaker, Sir, I will now make specific observations as per the Reports. The first one which was of a major concern to the Committee is on expenditure control. The Committee noted with a lot of regret that during the financial year 2000/2001, I hope my good friend, the hon. Minister for Finance is paying serious attention with little distraction from the Minister for Medical Services - the excess expenditure incurred without authority of Parliament amounted to Kshs364,740,140, compared to Kshs184,321,534 that was incurred in the previous year of 1999/2000. It should concern both the Minister and this House that excess expenditure incurred without authority of Parliament literally doubled.

The Committee was also concerned that the financial officers continued to overspend in total disregard of the laid-down financial regulations and without seeking parliamentary approval, and yet no action was taken against them by the responsible Accounting Officers who are usually the Permanent Secretaries, and in particular the Permanent Secretary for Finance. He is mandated by law to discipline them for such shortcomings. I want to believe that the new spirit of good governance and reform will ensure that, in future, any such public officer who spends money without parliamentary authority, or without following the laid-down financial regulations and procedures of Government should not act with impunity. That is the only way we can make sure that this excess does not continue doubling or maybe tripling.

Mr. Deputy Speaker, Sir, the Committee, therefore, made specific recommendations to the Permanent Secretary for Finance that he must liaise with the Attorney-General and the Head of Public Service and Secretary to the Cabinet in order to formulate regulations which will ensure that no Accounting Officer spends more than what has been allocated in the Budget without seeking the requisite parliamentary approval. The Permanent Secretary, Finance, must therefore, ensure that Parliament approves the Excess Votes, after they have been brought to the House.

Mr. Deputy Speaker, Sir, the second general observation that the Committee made, and which it felt important to be introduced at this particular time, has to do with road construction and maintenance. You will agree with me that the findings of the Committee are still very relevant because, a few minutes ago, we were discussing issues to do with roads. The Committee noted

with concern that some roads took too long to be completed because of termination of appointments and contracts due to lack of performance and inadequate funding. During the construction of the Kisii-Chemosit Road in particular, the contract was initially awarded to Solel Boneh International Limited in 1986 for a tender sum of Kshs146,492,302. However, the contract was terminated two years later in 1988, due to non-performance by the contractor who had only done six kilometres within two years.

A second contract was awarded to Zakhem International Construction Company in 1988. However, the contractor suspended the work in 1992 citing non-payment. These are all actions by public officers. A new contract was awarded to the same contractor after renegotiations in January 1997. You can do simple arithmetic there; from 1986 to 1988 that is a difference of two years. From 1988 to 1992, are six years and 1992 to 1997, another five years. That sounds like simple arithmetic studied in primary school where you establish a pattern to get the next number. These were negotiated in January 1997 for a sum of Kshs557,931,780.36. From the initial sum, of 1996, of Kshs146 million, we are now renegotiating for the same road at Kshs557 million. I think, that was enough. The contract was terminated in June 1997, barely five months after the contract was signed because the contractor failed to perform. However, he moved to court and was paid Kshs178,426,042.51. He was paid for work not done.

The Minister for Finance will always be coming back to ask us for more money when we are losing money for a job not done. That is not the end of the story. A third contract was awarded to HZ and Company in July 1997, one month after the other one was terminated, at a sum of Kshs798,804,445. The contractor, believe me, is like a fairy tale. He suspended the work in June 1998 citing non-payment and the contract was terminated in the year 2000.

Mr. Deputy Speaker, Sir, I am wondering whether the House is following this. Nobody is showing any signs of disapproval.

Mr. Deputy Speaker: Hon. Members, this is a very important Report from the Public Accounts Committee. Please, the House needs your attention!

Mr. Ethuro: Mr. Deputy Speaker, Sir, there is a third contract which was awarded to Put Sarajevo Engineering Contractors in October 2001 at a contract sum of Kshs896 million. The Ministry had to pay the contracting services to Otieno Odongo who was contracted to supervise the project. The firm was paid a total of Kshs26,402,000. With four contracts, what was the contractor supervising? From Kshs146 million to almost Kshs986 million which is almost a billion, in a period of ten years, the road was not done but the money was paid!

"The Committee is gravely concerned that the project was poorly designed and executed. Hence, the road which was to cost the taxpayer Kshs146 million had, by November 2004, cost Ksh1.8 billion, yet it was still incomplete. Repeated appointments and termination of contracts delayed the completion of the road and led to loss of colossal sums of public funds".

We believe that this was deliberate in order to syphon off taxpayers' money.

"The Committee, therefore, recommends that the Kenya Anti-Corruption Commission (KACC) investigates this project, from inception to completion, with a view to establishing whether the Government got value for money and prosecute, in our view, any persons who were involved in the embezzlement of public funds".

The third conclusion that the Committee would like to highlight is the allocation of Government plots and houses to Government officers and firms.

"The Committee noted with grave concern that Government plots and houses were allocated to private firms and individuals through direct grants upon approval by the Head of State pursuant to powers conferred upon the President by Section 3 of the Government Lands Act, Cap.280, Laws of Kenya".

We do not dispute that. However, in some instances where the allocations were done by the Commissioner of Lands or the Head of Public Service, these are not provided for. By 30th June,

2001, the number of plots allocated by the Commissioner of Lands or the Head of Public Service came to a total of 618 of which 320 plots were in Nairobi, 67 in Coast Province, 39 in Central Province, nine in Eastern Province, two in North Eastern and three in Western Province.

"The Committee further noted that the Presidential Commission of Inquiry on Illegal/Irregular Allocation Public Land, famously known as "The Ndung'u Land Report" investigated the matter and it was expected that as soon as the Report was adopted and released, the relevant Ministry of Lands would be able to implement its recommendations".

We are still awaiting its implementation.

"The Committee, therefore, expresses great concern that the Presidential Commission of Inquiry on the Illegal Allocation of Public Land, "Ndung'u Land Report" had concluded its work. However, its recommendations are yet to be implemented".

Further,

"The Committee observed that most of the plots and houses which were allocated were public utilities and, therefore, the allocations remain irregular and must revert to the original intended use of public utilities. It is, therefore, a considered recommendation by the Committee that the Government should implement the recommendations of the Commission of Inquiry into the Irregular and Illegal Allocation of Public Land".

Mr. Deputy Speaker, Sir, at this juncture, I would like to congratulate the new Minister for Lands. When he was taking office, he made it very clear that even the President, by law, when he wants to allocate public land, he should commit it in writing. I really hope that Mr. Orenge will continue with that spirit until the time he leaves that Ministry. I hope it is not just time for making promises because new kids are on the block. We hope the promises will be sustained.

"The Committee noted with concern that Camp Globe Limited of the United Kingdom was identified by the Office of the President and approved by the Treasury to deliver a security printing press valued at another Kshs430 million. The procurement was done in 1993 through single-sourcing since this was a security item".

The Committee was really concerned about the single-sourcing on issues to do with security matters.

The Committee also noted that the Treasury purchased 300 vehicles for the Office of the President at a cost of Kshs278 million. But the Ministry had no details on how the supply of the vehicles was identified, the type and number of vehicles supplied and where the vehicles went.

Mr. Deputy Speaker, Sir, the Committee noted that the Treasury factored into the budget of the Office of the President for the year 2000/2001, the provision for the payment of an amount of Kshs708 million for 300 vehicles which were to be bought at a cost of Kshs278 million, which is almost Kshs300 million. Now they were going for over Kshs700 million. This was more than twice the original cost used in the purchase of the said vehicles and printing press. The Committee, therefore, expresses its displeasure that the funds for the purchase of the 300 vehicles' was factored into the Budget without clear documentary evidence of the vehicles' physical presence.

The Committee was further concerned by the irregular manner in which the supplier of the vehicles was identified. It was not possible, therefore, to determine whether the vehicles were ever delivered since their whereabouts was not known. The vehicles and the money were lost. The Committee, therefore, strongly recommends that the Accounting Officer should liaise with the Permanent Secretary, Treasury, and identify the officers responsible for these actions, in both the Treasury and the Office of the President, who are responsible for the irregular handling of the Kshs700 million, with a view to ensuring that they face the full force of the law for all their sins of omission and commission.

The Committee further recommends, without hesitation, that the Director of the Kenya Anti-Corruption Commission (KACC) should move with speed and investigate the entire procurement of goods and services, which cost the Government the Kshs708 million. They should be able to prosecute any persons who fail to adhere to the laid down procurement rules and regulations.

Mr. Deputy Speaker, Sir, I am sorry that hon. Members are reading about monies just disappearing. That is, however, the reality of the Kenyan public. We have no choice but to give it to you, because we also receive it on your behalf.

Mr. Deputy Speaker, Sir, there is an issue that we found important to highlight at this particular stage. That is compensation and payment of *ex-gratia*. The Committee noted that there was a delay in settlement of payment arising from suits against the Government. This is an issue that the Committee, for the all the years I remember, has been grappling with. I hope that this time round, the Grand Coalition should be able to bring it to termination.

Mr. Deputy Speaker, Sir, the Committee was informed that delay by Ministries in settling claims after judgement by courts was caused by none other than the Attorney-General of the Republic of Kenya. The Attorney-General's failure to communicate court awards to the Ministries in time, the Treasury's sluggishness in granting authority to settle awards and the lack of the necessary budgetary provisions, because the expenditure is unpredictable, are some of the real culprits that make the Government lose a lot of money.

In some cases, it was just abdication of responsibility by none other than a Minister of the Government appointed for the sole purpose, in the person of the Attorney-General, to represent the Government. I will give examples. The Committee was informed that the Attorney-General was duly notified by the Office of the President about a contractor, one Highway Furniture Mart, who was awarded a contract to build the Kirinyaga District Headquarters, of his intention to sue the Ministry over a disputed claim of Kshs11,257,111 plus interest at 36 per cent. The Ministry notified the Attorney-General; however, the Ministry lost the case. It protested to the Attorney-General - we have copies of the letter Ref.No.OP201209/008/CE/83/51 of 21st, March, 2000 - that he should institute an appeal. This was done but it was unsuccessful.

Mr. Deputy Speaker, Sir, the Attorney-General instructed the KACC to investigate the State Counsel, one by the name V.V. Prasad, due to his conduct in the case and other matters. However, the officer went back to his country of origin. The Government was, therefore, left with no choice but to pay the sum of Kshs48,774,267.40, which comprised the initial amount and the accrued interest. You will realise that the initial amount was only Kshs11 million.

Mr. Deputy Speaker, Sir, another example of the negligence on the part of the Attorney-General is that the Committee was informed that a contractor who rehabilitated roads in Mandera and Wajir Districts was claiming payment of Kshs12,632,100 and a sum of Kshs14,400,000, being the value of performance bonds plus damages for breach of contract and interest.

Although the Ministry disputed the claim, the hearing of the contested issues was set for 6th October, 1999. However, the State Counsel did not appear in court. The case was subsequently heard *ex-parte* and ruling given in favour of the plaintiff- of course, what do you expect - on the 23rd November, 1999. The Committee was appalled and disgusted by the manner in which the Government lost huge sums of money as a result of improper representation in court by officers from the Attorney-General's Office. I am sure he is still smiling!

The Committee, therefore, recommends that the Head of Public Service and Secretary to the Cabinet should reconsider the existing policy in order to effectively and efficiently address court representation, and Government defence in court to avoid unnecessary losses of public funds.

In fact, many Ministries would rather have officers from the Attorney-General attached to them even if they share them, so that the line Ministries know that if there is any litigation, they have their own officer whom the Permanent Secretary (PS) can instruct to represent him in court. The courts are blackmailing PSs. Sometimes when they fail to go to court, the court issue court

summons for them to be arrested. Then, everybody is in panic and would like to pay immediately.

The Committee further recommends that the Director of the KACC should investigate all these cases, which have been lost due to failure, or inadequate representation, or incompetent representation in courts by the Office of the Attorney-General, with a view to prosecuting the officers who occasioned loss of public funds.

In the course of taking evidence, the Committee noted with regret that these officers from the Office of the Attorney-General have yet to win a single case for their client. I actually suspect that they lost in all cases; it is only that I do not have the entire history from 1963. The Government has never won a single case. This is not because Ministries were not furnishing the Attorney-General with the relevant information. It was because the Office of the Attorney-General was either incompetent or unwilling or unable to perform, or all of the above.

Mr. Deputy Speaker, Sir, the Committee is yet to be furnished with a single case where a Government Ministry won a case against it. Due to the foregoing, therefore, the Committee recommends that Government representation in court be decentralised from the Office of the Attorney-General.

Every Ministry should have a legal division with experts, who can effectively and efficiently represent it in court in order to avoid payment of colossal sums of money arising from judgements against Government and accrued interests.

Mr. Deputy Speaker, Sir, the sixth example is on the National Population and Housing Census on pages 32 to 36 of the 2000/2001 Report. This is extremely topical given that it is just another one year to go to conduct another National Census. You will be surprised to know that this one was just terrible. The Committee abhorred the manner in which procurement regulations were flouted and public funds misappropriated in the entire census exercise. The Committee, therefore, recommends that the Director of the Kenya Anti-Corruption Commission should institute a thorough investigation to establish the loss of Government revenue and property due to embezzlement, mismanagement and misappropriation, with a view to prosecuting those officers who were involved in the mismanagement and misappropriation of public funds assigned to this project. We had given examples, where small items such as rubbers and pencils were bought at hundred times the original price, but were not even delivered. When you look at the stock cards, you will see that there is nothing to reflect delivery of those items. This culture of impunity needs to be arrested like yesterday.

The seventh example is a case study on a Government gone haywire on creating ghost projects for purposes of looting public funds. I am referring to Loitokitok Customs Offices Project on pages 36 to 38 of the 2000/2001 Report. The Committee visited this particular facility. The Committee was informed that a Customs border point at Loitokitok was built at a cost of Kshs603,678,899 and was handed over to the Kenya Revenue Authority (KRA) in the year 2000, without any water supply, furniture and other facilities. A contractor was, therefore, awarded a tender to build a borehole at a cost of Kshs1,565,100. The contractor attempted to drill three boreholes that yielded no water. He claimed that the area had volcanic ash, boulders, as well as very hard ballistic rocks. The Committee was further informed that only 16 out of the 86 houses constructed were actually occupied. This was actually a rip-off. It was never meant to serve any purpose. The KRA had been granted permission to use the vacant units for training. There were no trainees. The Committee notes with concern the irresponsible manner in which the entire project, which had no feasibility study, was poorly planned and executed before even ascertaining how the building would be utilised. It was a project with no purpose, except the sole purpose of looting from the public coffers.

The Committee, therefore, notes that by the time of this site visit, Kshs500 million had been paid, leaving a pending bill of Kshs612 million. The Committee also noted that the supervisory team of the project, Ministry of Roads and Public Works, contributed greatly to the loss of public funds through unnecessary contract variations, including exceeding the legal limit.

Once you vary a project beyond 25 per cent, it is supposed to be a new contract that should be tendered. But here, they were giving completion certificates and varying the tenders. So, a project that would have cost us very little money, ended up with over Kshs1 billion. We suspected that this particular project was really a rip-off. The Committee, therefore, makes five specific recommendations:-

(a) The then Accounting Officers in the Ministries of Finance and Ministry of Roads and Public Works should be held responsible for the losses incurred by the Government in this project.

(b) The Accounting Officer should ensure that the buildings are immediately put to some good use in order to safeguard them from vandalism and further deterioration through wear and tear.

(c) No payments should be made to the contractor (Donwood) and the contractor should be blacklisted.

(d) The Director of the Kenya Anti-Corruption Commission should institute investigations into all the transactions involving this project with a view to having all the officers involved in the transactions brought to book.

(e) The contractor, Donwood, should be deregistered and precluded from future award of Government contracts.

The eighth example is on a loan that was given to Telkom Kenya Limited. The Committee was informed that the Treasury paid Kshs2,608,881,000 to Telkom Kenya Limited as licence fee for Safaricom. The sale of Telkom Kenya Limited shares to a strategic partner did not take place. The loan, therefore, remained outstanding. Telkom Kenya Limited submitted a new proposal for repayment of the loan and that the said corporation was in default in repayment of the loan in accordance with the terms of the signed agreements. The Committee noted with concern that the loan to Telkom Kenya Limited has not been repaid to the Exchequer.

The Committee was also concerned that the Government was not receiving dividends or revenue from its shareholding in Safaricom. The Committee, therefore, recommends that the Accounting Officer should ensure that the loan granted to Telkom Kenya Limited, amounting to Kshs2,608,881,000 and the interest accrued, should be repaid by the 30th June, 2008. Of course, this is something that the next Committee should be looking into. That time could just come and elapse like it happened in the past. The Committee also recommended that the Accounting Officer should ensure that Government receives, in full, all the revenue owed by or outstanding from Safaricom in form of dividends.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Imanyara) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, the ninth recommendation is on outdated Act, The Kenya Post Office Savings Bank Act. This is found on pages 64 to 66 of the Report. The Committee was informed that the losses incurred by the Kenya Post Office Savings Bank were as a result of inefficient management and poor investment strategies in spite of the fact that we have a whole Investments Secretary at the Treasury.

Mr. Temporary Deputy Speaker, Sir, the investments were mainly in the following financial institutions, which were under receivership: Continental Bank Limited, Kshs23,372,642; Continental Credit Limited, Kshs9 million; Home Loans Limited, Kshs34 million; Pioneer Building Society Limited, Kshs38 million; and Rural Urban Credit Limited, Kshs1,486,065.60. For those under receivership, this amounts to Kshs106,224,531.

Mr. Temporary Deputy Speaker, Sir, the Bank also lost some money through other banks that were under liquidation. These were Trade Bank, Kshs51,900,000; Middle Africa Finance

Limited, Kshs856,373; Allied Credit Limited, Kshs9 million; International Finance Limited, Kshs7,773,479; Inter-Africa Credit Limited, Kshs8,500,000; Prudential Bank Limited, Kshs423,253,000 and Trust Bank Limited, Kshs167,576,478; a sub-total of Kshs294,122,708.90. The sum total of both comes to Kshs400,347,239.90.

Mr. Temporary Deputy Speaker, Sir, the Committee was greatly concerned that the Kenya Post Office Savings Bank (KPOSB) still operated under an outdated Act, which made its debt an unnecessary burden to the taxpayer. The Committee was further concerned that no action had been taken against the manager who had mismanaged the bank for a long time, to the extent that they had accumulated those kinds of losses. The Committee reiterated its earlier recommendation under Paragraphs 172 to 174 of the year 1999/2000, that the Director of the Kenya Anti-Corruption Commission (KACC) should investigate the circumstances that led to the accumulated losses with a view to holding responsible and prosecuting those persons involved in the mismanagement of the KPOSB.

The Committee further reiterated its earlier recommendations - in fact, as far back as the accounts of 1996/1997, 1997/1998 and 1999/2000 - that the Accounting Officer should liaise with the Attorney-General in order to present a Bill to Parliament which will amend such an outdated Act soonest. To date, and even in this year's Budget, the Treasury continues to provide funds in obligation to that outdated Act. We are asking that the Treasury should not be under such an obligation when the loans are mismanaged under such circumstances.

Mr. Temporary Deputy Speaker, Sir, the tenth example is on fund accounts, and that is the responsibility of the Minister for Finance. The Committee noted with great concern that despite its previous numerous recommendations on winding up of either fund accounts, such as the Rural Enterprise Fund, the Kenya Local Loan Support Fund, a shady Widows and Orphans Pension Fund - it is still in our books - the Treasury continues to ignore such recommendations and continues with the accounts, thus opening possible avenues for misappropriation. The Committee recommended that all Accounting Officers must ensure that the funds are wound up without further delay.

Mr. Temporary Deputy Speaker, Sir, as I submitted earlier, the Public Accounts Committee (PAC) is one of those important Committees of this House. That is because it looks carefully at the recommendations of the Controller and Auditor-General. Even before those recommendations are noted by the Controller and Auditor-General in his Report, responsible officers are usually given adequate opportunity to explain, to make representations and when they fail to do so, is when the Controller and Auditor-General publishes the Report. The House still affords them an opportunity, through looking at those reports of the Controller and Auditor-General, and calls the relevant Accounting Officer with a view to either finding out whether he or she has recovered something in terms of money lost, or some provisions if there is a legal lacuna that the officers are taking advantage of and, finally, end up with what we call the "Big Five"! That is the Attorney-General himself, the Head of Public Service, the Controller and Auditor-General himself, and the Permanent Secretary for Finance. So, we want to make sure that in all those things, nothing is being reported that has not been verified, audited or considered carefully. So, by the time the Report comes before the House, it is a grave matter!

Mr. Temporary Deputy Speaker, Sir, if this country is going to take its institutions very seriously; if this nation is going to make Parliament play its role in the national agenda, it is extremely important that the relevant Ministries, especially the Treasury, when it is responding to its memoranda, will be able to deal with the specific recommendations by the Speaker, with a sense of duty and a commitment, and with a desire to ensure that you can account for each and every penny that the Kenyan people are giving to the Government for the sake of its development; and for the sake of paying its officers in order to do a good job.

Mr. Temporary Deputy Speaker, Sir, the Treasury should not be shy. This House should

take its obligations seriously. Any public officer who does not perform to the expectations of the public must be discharged from the Public Service.

Mr. Temporary Deputy Speaker, Sir, I wish to conclude by, once again, thanking your office and the Clerk's office for the stewardship and support that they gave to the Committee. Finally, I want to remember the Members of that Committee who could not make it back to the House. Wherever they are, let them be out there knowing that they rendered very effective service to this Parliament and to this country.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to move, and request my good friend, the Member for Isiolo South, hon. Abdul Bahari, to second this Motion.

(Applause)

Mr. Bahari: Thank you, Mr. Temporary Deputy Speaker, Sir. I want, from the outset, to thank hon. Ethuro and Members of that Committee for giving us a very, very detailed and well-thought-out Report.

Mr. Temporary Deputy Speaker, Sir, it is quite clear that that Committee did a better job than, perhaps, all the previous Committees. Leadership is first bestowed on us here. We must take it very, very seriously. We have been entrusted with public funds. We have been entrusted with the role of being the watchdog of public funds. As a House, we must do that job effectively.

Mr. Temporary Deputy Speaker, Sir, year in, year out, those Reports have been coming here. It now looks like a ritual. That should not be allowed to continue because the omissions that were reported to this House many years ago, are the same ones that are being reported even in this Report. In that case, we are not being fully accountable. This Report must be acted upon and corrective actions taken.

Mr. Temporary Deputy Speaker, Sir, I want to give you an example of the kind of repetitions or omissions that continue unabated and which, in fact, in some instances, are being exacerbated. That is the issue of unauthorised expenditure. That is an expenditure that has not been authorised by Parliament. You very well know that, that is a constitutional matter. Nobody should spend funds that have not been authorised. Even the ones that have been authorised by Parliament, they must be spend for that purpose and no other purpose whatsoever! That is a constitutional matter and if individuals in the Public Service can dare breach the Constitution and get away with it, then we are not being accountable! We have not done our job!

Mr. Temporary Deputy Speaker, Sir, in the Report for the year 1999/2000 the unauthorised expenditure by the Government, which was in contravention of the Constitution, was Kshs184,321,534.00. In the Report for the year 2000/2001, this figure doubled to Kshs364,740,140.00. That is why I am saying that it has become a ritual. That is simple arithmetic and it is double the previous year's. This is a serious matter. It looks as if those in positions, that is the Authority to Incur Expenditure (AIE) holders, or the Accounting Officers, have not taken the Reports of the Public Accounts Committee (PAC) seriously. It is upon this House to ensure that the recommendations are adopted and remedial measures taken.

Mr. Temporary Deputy Speaker, Sir, as we stand here, I have not yet seen the Treasury memoranda on this matter. It is important that we see what kind of action has been taken, and how seriously the Treasury takes this matter. The seriousness of the Treasury can only be reflected by the contents of the report from Treasury. Even if you read those reports--- I have looked at previous ones, and seen some of the common statements such as "This matter is being followed up with the relevant Ministry". That is not enough. In the past, we have known that departments which were next to each other kept on writing letters to each other for one year, and no action was taken.

We have been given a classic example of the Attorney-General's Chambers, where the Government has been taken to court by individuals and not a single case has been won by the Government. We are comfortably talking about Public Service reforms, performance contracts, and

so on. Such jargon does not make sense at all, if there has been no action in some of those departments. In the private sector, radical surgeries, not like the one that was done in the judiciary, but more effective ones, like doing away with a whole department, are undertaken. These are very common in organizations. I have seen them; we did it in my previous organization. You can wake up one day and say that a department, for example procurement, can go home because it has outlived its usefulness.

*[The Temporary Deputy Speaker
(Mr. Imanyara) left the Chair]*

*[The Temporary Deputy Speaker
(Prof. Kamar) took the Chair]*

Madam Temporary Deputy Speaker, it is high time we adopted that kind of spirit in the public service, otherwise we are playing around with the minds of Kenyans on the issue of performance contracting; all those jargons and the medals that we brought in here mean nothing. You know that Kenyans are heavily taxed. That is why they are living below the poverty line; they cannot afford essential commodities due to the taxes that have been imposed on them. If those taxes are not used properly, then we have no moral authority to continue approving taxation measures in this country. It is, therefore, incumbent upon this House to ensure that we remain accountable.

Very simple issues, like reconciliation exercises in the Ministries, fail basic audit tests. As a result of that, there are a lot of grey areas in accountability for public funds. When you see no proper reconciliation, then those are areas where fraud and corruption are taking place. That is how corruption is hidden. These kinds of things should not be allowed to continue. In the private sector, bank reconciliations are done on a weekly basis. There is a requirement in the Government that, they have to be done on a monthly basis, but they are not done; even the auditors are unable to get them and we allow those responsible to continue doing what they have been doing.

Madam Temporary Deputy Speaker, there is the example of Kisii-Chemosit Road that was given by Mr. Ethuro. That road has been under construction for 18 years. Initially, the cost of that road was estimated at Kshs146,492,302. Eighteen years down the line, it still stands incomplete and its cost is at Kshs1.8 billion. What are we doing? That is an outright fraud! You can see that the same is repeated in many other instances.

Mr. Temporary Deputy Speaker, Sir, another example is the Narok-Mau Narok Road. In this instance, the appointed consultant evaluated the pending bill for that road at Kshs261,623,163. The consultant recommended Kshs313,131,949. Reports indicate that the contractor was paid a total sum of Kshs984,863,173. against the advice of the consultant. The contractor appeared, therefore, to have been paid a total sum of Kshs1,297,995,122, for which the Government did not receive any value. This is the kind of gross misappropriation of public funds that we are talking about.

Madam Temporary Deputy Speaker, in the same Report, we have a situation where a pencil sharpener was sold to the Government for Kshs7 per piece when the market price was only Kshs3. Yet, those responsible got away with it. There are instances where there is outright fraud, and we have those court cases where the Attorney-General failed to appear in court and judgements were entered *ex-parte*, because the Government was not represented. In such instances, normally, there is never fairness for the Government and, by extension, the Kenyan public.

Throughout the Report, you will read scaring situations of misapplication of public funds. In certain instances, accounting documents were not there. They conveniently disappeared and nothing was done.

It is high time the Government went the e-government way, so that it is possible to track

some of those expenditures and transactions.

There were also reports of instances where State corporations were unable to meet their obligations. They are there even today. I know, on many occasions, where the same State corporations have been blamed for that. Recommendations have been made to bail out and re-organise those organisations. But I want to take this opportunity, perhaps, to bring to the attention of the Ministry--- That is because all State corporations are under the supervision of certain Ministries. They are called parent Ministries. Those parent Ministries have tended not to supervise the parastatals. They have ignored them in most instances. They will only remember those State corporations when they have one or two needs to be sorted out; either employment or contracts. They have left them un-supervised. The Treasury is not also spared in that. I know that from very many previous reports. The Treasury issues circulars on instruments of control and forgets them immediately they are signed! So, the Treasury must also ensure that the instruments they introduce for monitoring the performance of State corporations are followed to the letter.

Therefore, the same State corporations, after the Ministries fail to supervise them and load them with things that are not in their business interest, are later blamed and the Chief Executive Officers (CEOs) unnecessarily victimised. It is, therefore, important for the Ministries to appropriately supervise State corporations because they are public investments. By doing that, they will not over-burden the Treasury. They will absorb some of the expenses which the Treasury is unable to.

Madam Temporary Deputy Speaker, project implementation, time and again, has been a big problem in this country. We write very beautiful and viable proposals but, when it comes to the implementation of those projects like roads, we fail miserably. That is because we do not properly account for the funds. We do not employ the necessary manpower to implement those projects as required. In the end, it becomes very costly to the taxpayers. We have seen that in various reports.

Madam Temporary Deputy Speaker, the issue of procurement and disposal has been around with us, and it is still with us. The latest is with regard to the Grand Regency Hotel. I think the issue about the Grand Regency Hotel has been in the public domain. I do not need to revisit it.

In this Report, a jet was purchased by the State. There was a financier. But that financier disappeared under the guise of being declared bankrupt. That means that, perhaps, that financier was only put there for the purpose of siphoning public funds. It is quite clear! How else do you explain that? When you deal with procurement matters, normally, you conduct a due diligence investigation. Who did the due diligence investigation on the company that was financing the jet? It is just like the Anglo Leasing scam where those companies ended up being nowhere! Normally, in procurement, you have to make sure that you deal with existing institutions that can meet your requirements. But because the initial objective from the word "go" is to siphon public funds, we deliberately deal with briefcase suppliers, financiers; name it. I think that is not acceptable because it is going on day and night.

Madam Temporary Deputy Speaker, I think this Report is very clear. The Controller and Auditor-General has done her job. I think what is left is for this House to decide on what direction we shall take. Do we need to continue along the same line that we have continued before, or we have to take radical measures. It does not pay, whether you are in the Front Bench or Back Bench, to bury your head in the sand, when you are seeing that there is a problem. That is because, ultimately, that problem will come for you.

Madam Temporary Deputy Speaker, I know that many Members are very eager to contribute to this Motion. But I want to repeat again that the job is now ours to ensure that this Report is less voluminous; and that, it stops becoming a ritual.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you very much, Madam Temporary Deputy Speaker, for giving me an opportunity to support this Report. I would like to begin by congratulating hon. Ethuro and his team for a pretty good Report. It is very detailed.

However, even that Committee can be questioned on a number of issues. The first one is on the speed at which we receive these reports. This Report is for the year 2001/2002, and we are being asked to comment about it now.

Secondly, there are issues of recommendations that are softer than they should be. I think we can afford to be much more strict and serious with regard to the kind of action that we want to be taken against people who steal public resources.

Madam Temporary Deputy Speaker, it is also surprising that the Committee could not go to the bottom of knowing who are some of the recipients of some of the contracts, vehicles and other things that were procured. I think it required more time. We realise that they met 83 times, but I think the Report is incomplete if we cannot be told minor details about the kind of people who were beneficiaries and recipients.

We are also not being told about certain people who made certain recommendations regarding procurement and who should have received certain other things. More important, also, is the point that hon. Bahari made; that these Reports are monotonous. They are making us a laughing stock as Parliament. That is because we talk about them every year. We are told of the extent of the damage. Even names of the people that have ripped this country have been mentioned. They are even in many other reports. But nothing happens. So, what is the point of spending so much taxpayers' money to have 83 meetings and make so many visits across the country, to actually spend as much as some of the corrupt deals we are talking about, if we are not going to act on these reports? What is the need? I think we must find a mechanism for ensuring that action is taken.

Madam Temporary Deputy Speaker, the findings in this Report are worrying and actually scandalous. It is a shame that these kinds of things happen in this country. Public land continues to be grabbed. We are grabbing the Agricultural Development Co-operation (ADC) farms, yet we now have the problem of the Internally Displaced Persons (IDPs), who do not have any land on which to settle. The people who grabbed this land least need it. We do nothing about it; we just talk about the problem. We do not appreciate the fact that too much public land is misappropriated.

There are people in positions of authority who own land bigger than districts and provinces. People are grabbing land set aside for schools to the extent that in Nairobi we now have very few institutions, except for the private institutions. The land that was set aside for our public institutions by the white man, when he left in 1963 has also been grabbed by the very people who wanted to replace the white man, so that they could do better for the Africans.

People are grabbing cemeteries and public parks. Public parks were set aside because a lot of the people in this country are poor. They cannot afford the big residential homes we have in Runda, Langata and so on. They need a place where they can have some breathing space. But we want to grab that land. We also have cases of people grabbing public roads, bridges and other facilities that are meant for use by the public.

Madam Temporary Deputy Speaker, we have been told a lot about the issue of irregular procurement and payments. We have also heard about cases of the type and quality of goods that were procured. It is only in Government Ministries where you find models of Pajeros that are three or four years old when there are newer brands in the market. This is because cheaper quality was procured. These vehicles are all over the place.

It is only in Government where one can question the work done on roads, water, health services and so on, especially by the people who provide those services.

There are also cases of excess expenditure and imprest that is never accounted for. There is also the issue of transparency with regard to the allocation of donor funding. Sometimes there is

duplication of money that has already been provided by Treasury. This can be used to hide a loan, because we do know that if resources have already been voted and other resources come in, then there is no adequate explanation as to how the total resources are expended.

Madam Temporary Deputy Speaker, the recommendations are great in terms of what action should be taken. But, again, we lament, because even though these recommendations are made all the time, we seem to be seeing no action. However, there is hope. I wonder if we can achieve this given the kind of political conglomeration that we find ourselves in. When the NARC Government came to power in 2002 it promised Kenyans zero-tolerance to corruption. We were promising zero-tolerance to corruption because we believed the regime we had been fighting had all the tolerance to corruption. That was KANU. But as you know, KANU has bounced back in a big way. The very regime that we were fighting due to corruption, and that made us promise to have zero tolerance to corruption, has bounced back! The question is, how much corruption can we fight with this kind of people? Therefore, the nature of our coalition begs a lot of questions. Are we going to be making political compromises that will make it impossible for us to implement the reforms that we believe in? Is this the best way to deal with the problems of this country if we really want to change things? Are some of these political coalitions necessary if we know they will be an impediment?

Madam Temporary Deputy Speaker, the same applies to the Civil Service. We are not just talking about politicians. In the last Parliament, we kept lamenting that one of the reasons we could not implement change was because of the civil servants whom we had retained. We are retaining some of them even when they should be retiring, yet we expect to implement change!

(Applause)

How can we implement that change if the politicians and the civil servants we were fighting are in place as obstacles to change, because they know some of this change will also expose them? The question exists whether or not we should continue to have civil servants who are permanent and pensionable, even when they have nothing to show for it in terms of returns and productivity, and even when they have a record of corruption, or have been mentioned in certain issues, or when they have managed institutions where we see no change. There are important questions as to whether or not we are really going to get anywhere in terms of giving the people of Kenya the change that they have always demanded.

Madam Temporary Deputy Speaker, I remember reading, with a lot of sadness, an article by Mr. Macharia Gaitho on Tuesday last week. He explained why he thinks that it is going to be very difficult for us to expect any change. The title of the article was: Anglo Leasing and Goldenberg are in Coalition.

Madam Temporary Deputy Speaker, I beg every hon. Member to read that article. He cited various cases. In such a coalition, if these are the kinds of people who are going to be key in managing Ministries, what change do we expect? I know this is a dilemma. Sometimes some of these dilemmas were forced on us, given the reality that we found ourselves in. But are we going to continue accommodating realities that are not going to make a difference in terms of the changes that the people of Kenya expect?

Madam Temporary Deputy Speaker, I believe there is hope, because the three principal leaders, His Excellency the President, the Prime Minister, Mr. Raila, whom I am glad is sitting in Parliament, and the Vice-President and Minister for Home Affairs, Mr. Musyoka, during the campaign trail promised us a lean and clean Government. We will not be asking for too much if we ask them to live up to our expectations. Thankfully, they are all working as a team. The ironic thing is that the contest for the top seat caused a lot of misery and bloodshed in this country. If we knew that the three were going to work together---

The Prime Minister (Mr. Raila): On a point of order, Madam Temporary Deputy Speaker. Is Dr. Mwiria in order to insinuate that the Cabinet is bloated, when he is an Assistant Minister in

that very Cabinet?

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Madam Temporary Deputy Speaker, I did not speak about a bloated Cabinet. I think this matter is troubling the Prime Minister because he knows he contributed a great deal to the composition of a bloated Cabinet! It is guilt that is troubling him! But I am glad he mentioned that issue.

Madam Temporary Deputy Speaker, I just spoke about the issue of corruption. I said that the three leaders promised that they would fight corruption and that they would have a lean and clean Cabinet. I am sure the Prime Minister knows that not all his appointees are completely clean. I have hope, again, because Mr. Raila is now the Prime Minister. I remember how frustrated he was when he tried to reclaim land that was set aside for construction of roads. Individuals had put up houses on this land. He was very popular with Kenyans for that. He now has a chance to revisit that matter, not just with regard to the issue of roads but also with regard to any other public land that has been grabbed over the years.

Madam Temporary Deputy Speaker, we should also learn from countries in our region. Mr. Ethuro said that one of the reasons we exchange ideas is so that we can learn from regional countries. Do we have to go further than Tanzania to see how they are managing the issue of corruption? How many Ministers in Tanzania have resigned, just because they have been accused of corruption, including one who resigned only yesterday? Are we saying that the Tanzanians are more honest than we are, or that it is easier for them to deal with the issue of corruption than we can? Are we saying that we do not have Kenyans, who can own up and say: Look, it is quite clear that I am not good enough to serve the public; I had better call it quits? We need to begin to see that. If Tanzania and other countries are doing it, we, who pride ourselves in being the leaders in this country, must lead by example and begin to see some of us, who have caused the public so much misery, saying: Enough is enough; I am not good enough to serve the people of Kenya.

We should also ask a lot more about how we recruit and promote people. Should we continue to promote and recruit people who have a bad record? Should we not emphasise the need for merit in all recruitment that we initiate as a Government? If you do not recruit people with regard to merit, how do you expect them to practise merit when they get to a position of authority? Is that realistic to expect? It is not! I have always argued, even in the last Parliament - I have written about it too - that even before we appoint Ministers, Assistant Ministers and senior public officers, we should subject them to some kind of vetting. It must not be left to a few top politicians and their very close friends to decide for us the people to lead this country.

(Applause)

We must have a committee that vets the kind of people that occupy senior positions in this country. If we ask drivers and messengers to present a letter of good conduct before they get employment, should we not ask that of Ministers and Permanent Secretaries who are presiding over billions of shillings? Just a letter of good conduct! So, vetting is critical. Unless we do this, we are not going to get very far because if we are going to base our appointments on politics, regional balance, religion, very good friend *et cetera*, we are not doing anything for this country if merit is not made the basis of this recruitment.

Kenyans expected radical changes in 2002. A lot was made. *Mengi yaliwezekana*, but, of course, not everything that we would have liked to be done. However, a lot of that progress is threatened by the kind of concoction that we have come up with. We need to take care because we could be sitting on a powder keg thinking that because we have now come up with a Government of National Unity, we have solved all the problems. We are not going to solve problems by giving positions, privileges and only enlarging Government expenditure. We need to touch on the problem of the people of this country and that is about poverty and inequality.

The *Mungiki*, all these militia and the ethnic clashes that we saw are much more about

poverty than they are about politics. If leaders do not lead by example and make it very clear that corruption is something they do not want to be associated with and that we have to fight it very strongly, by ensuring that we implement such Reports, then the people of Kenya will lose faith in the possibility of change that will benefit them.

Madam Temporary Deputy Speaker, finally, I want to say that it is really all about leadership at the top, that is, our President, the Prime Minister, the Vice-President, Ministers and Parliament in terms of ensuring that we remain the vanguard of the people of Kenya by ensuring that such Reports are implemented. I believe in the Government of National Unity. I also believe that it is good to accommodate as many Kenyans as possible. This is why I think the Truth, Justice and Reconciliation Commission is useful. We need to get all the people that are guilty and are still playing a role in Government to repent and say sorry to Kenyans and promise never to repeat those mistakes again as a way of, maybe, getting out of this crisis.

I will conclude by saying that we can talk, complain and Reports will be produced. Then as politicians, we will make the most noise. If, however, as Parliament, we do not play our role in terms of ensuring that we check the excesses of all wings of Government, then the good work of Mr. Ethuro and his Committee is going to come to nought.

With those remarks, I beg to support.

Mr. Olago: Madam Temporary Deputy Speaker, I stand to support the adoption of these Report, but looking at the litany of omissions and acts of commission set out by Mr. Ethuro in these Report, I am sure similar Reports have been dealt with in this House before. The only problem, and I could go through this over and over again, is the lack of implementation of recommendations of this House. Time has come for this House to decide that it is necessary to have an implementation committee of the House to look at these recommendations. If that is not done, then two weeks from now, this Report will be shelved and will be forgotten until next year when we shall have a similar Report to talk about.

The office of the Attorney-General is the legal advisor and defender of this Government. This Report contains indictments on the Office of the Attorney-General. In my view, talking as a lawyer,

the omissions that we see in this Report from the Office of the Attorney-General are not simply incompetence or dishonesty, but a combination of both.

There is no way the Office of the Attorney-General can defend the Government when major road construction contracts are terminated and penalty provisions of the contract are not invoked. As a result, the Government loses a lot of money and yet nothing happens.

Madam Temporary Deputy Speaker, my view is that we are going to have similar Reports. However, for now, I wish to say that we support the adoption of this Report, but the House should look seriously at possibilities of having an implementation committee.

The Assistant Minister for Medical Services (Mr. Mungatana): Madam Temporary Deputy Speaker, may I also take this opportunity to thank the Committee that did a wonderful job, in particular, the able presentation that was made here by Mr. Ethuro. The issues that have been raised here, in agreeing with previous speakers, need a lot of action in terms of implementation.

One of the issues that came out during the presentation of the Report is that the accounting officers in the various Ministries of Government have continually been overshooting the budget that is allocated to them and yet the Permanent Secretary, Treasury, does not have any form of power to control these people.

Emanating naturally from that recommendation, I would request, and I know that the Minister is here, that the Treasury, this year, should bring forth a Bill in this House for us to empower the Permanent Secretary, Treasury, to hold responsible, personally, any accounting officer in the Government who overshoots the budget. They should be made to personally pay for that expenditure. That is the only way some discipline will be instilled in expenditure within the Government.

Madam Temporary Deputy Speaker, in his Report to us, Mr. Ethuro also raised issues of concern with construction of the roads they visited, for example, the Moi-Cheptiret Road where there was a contract which was terminated, another contract was awarded and also terminated. Even when some professional consultancy services were sought and Kshs26 million was paid out, still no good results were realised. The recommendation there is that the KACC should investigate this particular project right from its inception to its completion.

I want to pause there and say something about the KACC. Ordinarily, we have passed a law here that says that every year, the KACC must present reports to this Parliament of how they have been performing outside there. I was going to say that those reports, when they come to this House, they talk about who was caught taking Kshs10,000 and some petty thieves somewhere else. However, when it comes to the real issues that are presented by this Parliament, for example, a specific demand by this Parliamentary Committee, we never get those reports from the KACC.

I want to propose that this Committee goes a step further to extract some of the recommendations that it will send to the Kenya Anti-Corruption Commission (KACC). We, as Parliament, require such a body to answer questions by this Committee before they present their reports to us.

Madam Temporary Deputy Speaker, there is a very clear recommendation in this Report to the effect that recommendations contained in the Report of the Presidential Commission of Inquiry on Illegal/Irregular Allocation of Public Land, also known as the Ndung'u Report, be implemented. I am very happy that our new Minister for Lands has pledged to implement the Ndung'u Report. It has taken so many years, since the year 2000 up to today, for it to be implemented.

We have been told that in the Coast Province, 67 public plots and public houses for civil servants were allocated to individuals, whereas 320 plots in Nairobi, some of which contain Government houses, were allocated to individuals. This is public land. We need to repossess it. That is the major recommendation contained in the Ndung'u Report. We hope that our Minister for Lands will keep his word this time round. We have had many other Ministers who went to the Ministry with steam, but somewhere along the road, they left the matter alone.

Madam Temporary Deputy Speaker, the Ndung'u Report went further to say that some of the allocations were done legally by the Head of State, pursuant to the powers conferred on him by Section 9 of the Government Lands Act, Cap.208. Such powers need not be the reserve of the President in this kind of a new democratic society. It is time that we re-visit some of these old Acts of Parliament which supplement corruption. I would urge the Ministry, having given a public pronouncement that it will deal with corruption, to also bring to this House the necessary legal amendments, so that we can strip the President of the powers to allocate houses or Government plots. In the past, this power was abused. We do not know what will happen in future if this kind of power remains in our Acts of Parliament.

Under irregular expenditure, there is an issue about 300 vehicles which were purchased at a cost of Kshs278 million. However, there is no proof that after the money was paid by the Office of the President, the vehicles were actually supplied. In this Report, it is further stated that there is no information as to who the supplier was. So, we have Kshs278 million which was unaccounted for. If you read further, you will see there is another Kshs708 million that was paid, but which was not accounted for. Another recommendation here calls upon the Director-General of the KACC to further investigate this matter. Amongst the matters on which the Director-General of the KACC must report to Parliament, must be specific issues that we, as Parliament, have asked him to look into, so that we get fair information.

Madam Temporary Deputy Speaker, there is the issue of Ministries never winning any case in court. There were even instances where Ministries were not represented in court by the Attorney-General (AG). Time has now come for us to make the AG personally liable in matters relating to these kinds of cases. If you look at the kind of losses we, as a nation, have suffered because of pure negligence, it is not excusable. We need to change. Once public officials are not made personally

liable, then these kinds of things will continue. For instance, we are told that there is a State Counsel who was to represent the Government in a case involving Kshs11 million. This case involved a contractor called M/s Highway Furniture, who was to construct the District Headquarters in Kirinyaga District. We are told that this lawyer called M/s V.V. Prassad, never turned up in court. In fact, he never bothered, despite the fact that he was the person who was charged with the responsibility of handling that matter. As a result, the Government lost that money. In this Report, the Government was forced to pay, from an original claim of Kshs11 million to Kshs48 million. The contractor was then counting interest and damages. We are informed that M/s V.V. Prassad was not a Kenyan. He ran away to India, his country of origin.

Madam Temporary Deputy Speaker, this tells us a lot about the hiring policy of lawyers. How can we employ a State Counsel who is not a Kenyan to represent the Kenyan Government in matters that cost millions of shilling to the Government? It is truly time that the AG establishes a criteria for hiring lawyers. How can we hire a person who does not hold a Kenyan passport to represent the Kenyan Government in matters that involve millions of shillings? This is not the first case. It is a shame to this country for things like that to happen. The AG must come up with a clear policy on hiring of personnel. Emanating from this Report, we must stop hiring State Counsels who are not Kenyans. As a matter of fact, those hired to represent the Government must be citizens of this Republic. This is because they will have feelings for us.

If you are a lawyer from India, or another country, you will come, cut a deal with the defence lawyers, collect your money and run away from the country, never to come back again, because you do not have feelings for this country. Therefore, the AG must stop hiring any person who is not Kenyan to represent us. There must be a clear policy within his Chambers, so that if at any time we have cases of, at least, Kshs10 million, if they are not able to defend us, as a Government, they hire pre-qualified firms of advocates with proven capabilities. At that point, if they lose those cases, we can sue them for professional negligence. That criteria must be established in this country.

I am sure that if we do that, we will save this nation the millions that could be lost. It is also time for the Attorney-General to decentralize all the legal services. We must not say that just because the Constitution says he is the Chief Legal Advisor to the Government, then he should represent all the Ministries. We now have 40 Ministries! I do not see how the Attorney-General's Chambers---

When we had only 33 Ministries last year and 25 Ministries before, they failed to defend the Ministries. How will they now do it when we have 40 Ministries? Time has come to have a total decentralisation of legal services. Every Ministry and Minister needs legal services within his Ministry. We do not want Ministers walking out there and making pronunciations that do not make sense to any lawyer or even an ordinary citizen. We do not want Ministers talking outside the ambit of the law. That means they need to have their own legal department. We need to decentralise the Attorney-General's Chambers yesterday, so that we can have proper things being done within the law.

We have had a problem of returning Government money back to the Treasury because the financial year has come to an end and yet, services have not been given to our people! Money has not been spent in various districts. That has been a continuing problem. The Committee recommended that, that habit should stop! Kenyans need services outside there. We need proper planning structures. There has been an habit of all procurement officers not doing anything. A lot of work is delayed until when they know that money is supposed to go back to the Treasury. When they know the time has come, they quickly start spending that money without regard to any financial structures and regulations. We would like to see that particular recommendation implemented without any delay.

Madam Temporary Deputy Speaker, there is a recommendation on the question of public debt. In this country, the Minister in charge of the Treasury can walk out today, go to another

nation, World Bank or International Monetary Fund (IMF) and commit this country to billions of dollars in debt! He never comes back to this Parliament to get any form of approval. We then continue carrying that burden of public debt for generations to come. We pay now, next year, our children pay and their children also pay. In this country, the Constitution has given that kind of power to the Minister who is in charge of the Treasury. Time has now come - and I hope we will do it soon--- We have all given a public commitment that we will change the Constitution within 12 months. It is high time that the Minister in charge of the Treasury, before he commits the Treasury or this country's economy to debt, he must come to this Parliament to get approval. At all times, what we do here during the Budget is: "We stand here! There is so much money which has come! There are these proposals for the Budget expenditure." Then, we are supposed to approve that wholesale. But when the Minister is going to borrow money outside to commit us to debt, he is not bound by the Constitution to come and ask us.

It is terrible to hear on page 10 of this Report - even though it was many years ago - that the public debt at that time rose from Kshs337 billion to Kshs454 billion within a period of one year! That is Kshs100 billion more. The current debt is now at Kshs700 billion! This is the Minister in charge of Treasury. Parliament is not informed in any way. We need to change that law. We need to empower Parliament to question such deeds. That is because one of the duties of every Parliamentarian is to make sure that public monies, which are put in the Consolidated Fund, are properly utilised for the purposes for which they were meant. Why then do we emasculate Parliament so much that it is not able to question the Executive when it goes to commit us abroad? I think this should be a prime issue in the intended constitutional review of our Constitution, so that the Treasury could be coming to Parliament, inform hon. Members that we need to do domestic borrowing. Sometimes, they come and do domestic borrowing and increase the price of money in Kenya. Your loan which you borrowed at an interest rate of 18 per cent, suddenly shoots up to 30 per cent or 25 per cent! That is because the Minister decided to borrow and you were not aware. You cannot explain it to your constituents, business people or even to yourself. If Parliament is to regain its position in Kenya, as it should, we should be given that opportunity to cross-examine those commitments. We need to bring back power to the people in this House.

Madam Temporary Deputy Speaker, we have heard concerns expressed on the amount of indebtedness in this country. We have had countries which have been forgiven of their debts. The new Minister for Vision 2030 has told us that he is going to champion that matter and make sure that Kenya gets a debt relief. I think we need also, as we talk about our public debt, to be very careful. We are also informed that if your country is forgiven debt because it is unable to pay, then its credit facilities are shut out. Then, it becomes a dangerous country for us to invest in. What we need to be talking about is whether we can reschedule some of our debts, where necessary. Where a country is telling Kenya that it wants to help us do some projects, it should come. If it is a bilateral arrangement with Japan or another country, and they want to give us 100 million Yen for some project, they should forgive us some of the debts in a manner that we will pay. But we should not mess up our credit status. It is important for us to start understanding these matters early enough, so that we do not make some of those mistakes.

We have come a long way from the time that procurement was all a mess in Kenya. What we are asking now is that the procurement rules and the laws that we have passed in this country need to be implemented to the letter. Stories that we are reading in page 32, where we are told that the Ministry of Planning and National Development at that time procured a unit cost for a note book at double the price available in any market. Those things must not happen again! They must not be part of this country again. We have passed many laws and regulations to guide procurement in this country. We have definitely made some strides. However, we would like to see good implementation of the laws that we have passed.

I want to agree with a previous hon. Member who spoke about the lack of implementation of these reports. We are very happy with the PAC. It has brought two reports to be discussed in this

House. I think we should commend the PAC for that. We thank Mr. Ethuro and his Committee for the work that they did at that time.

For us to really act as a deterrent to future Accounting Officers in terms of misuse of public funds, we must have televised live coverage of these proceedings. You know when you read about the billions that have been misappropriated year in, year out, and yet the culprits are just walking freely, I think it is high time that the hearings of the PAC were televised and also made public.

Madam Temporary Deputy Speaker, the Speaker of the National Assembly has exercised his powers under Standing Order No.1 to allow televised live coverage during certain occasions in this Parliament. He has also given a ruling that before 31st December, 2008, we will have televised debates in Parliament. We support that ruling. We are with him on that matter. He can start it partially by permanently invoking that Standing Order. He could say, that the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) proceedings be televised live, so that it acts as a deterrent to other Accounting Officers in the Government. Their proceedings should be made live and open immediately. This is so that when a Permanent Secretary hears that so-and-so was stealing and misappropriating Government funds in a particular year, then he or she will be careful not to do so, in future. This must be implemented immediately.

We have been talking about a Prime Minister in this country for quite a number of years. Although we have promised Kenyans that we will have an overhaul of a constitutional review exercise, we still have made a partial change to the Constitution to include that important office. Although we are saying that by the end of the year, in a period of 12 months, we shall review the Standing Orders and effect them, let us start now by doing a partial amendment, by the Speaker ruling here permanently that PIC and PAC proceedings be televised live. If we do so, we shall deter those misappropriating public funds.

Madam Temporary Deputy Speaker, also when you look at these Reports, you will find out, very sadly, that the majority of the people who wrote them are not with us today. I remember they were eleven. Only three out of them have retained their seats. They held 98 sittings for the 2000/2001 Report. They held another 98 sittings for the Report of 2001/2002. They spent a lot of time in Parliament trying to do some work for us. Do you know what happened to them? Only three of them came back. Nine of them were thrown out. Why? Because nobody knew what they were doing. Instead of being in their constituencies, they were here trying to help this country, but they were thrown out. It is because nobody knew what they were doing. Nobody knew that Mr. Ethuro and the others who lost their seats, held 98 sittings when we were out there doing our own work even during campaigns. We lost some very quality leaders like hon. Billow Kerrow and others. They spent their time doing this work.

I think if we had televised live sittings of these committees where the constituents could see them grilling people who stole money from their districts, Constituency Development Fund (CDF), then, probably, we could continue having those people still sitting with us here today. They have paid the price with their own seats because of their sacrifice to this House. The archaic rules of this House refuse to let sittings of such Committees be televised live and yet they are doing quality work for this country. I think the House, in adopting this Report, should pass the recommendation that the Speaker should seriously introduce live coverage of hearings of these committees. It will act as a deterrent measure to officers who misappropriate public funds and also help the hon. Members that we have seconded from our political parties to maintain visibility that they are doing work for us.

Madam Temporary Deputy Speaker, with those remarks, I beg to support.

The Assistant Minister for Education (Prof. Olweny): Thank you, Madam Temporary Deputy Speaker, for giving me an opportunity to support the Motion. These two Reports that are on the Floor today are actually more than five years old and they are here for us to discuss. I am wondering what purpose they are serving because if at all there were problems reported in these Reports, some of the people who committed these crimes are out of the service. They have retired.

There is very little we can do to them today. So, the PAC Reports should be brought here in good time. We should not have a difference of more than a year for PAC Reports to be brought here for us to discuss them. For example, today we would be talking about the PAC Reports of last year. If at all they are that late, they should be for two years ago.

Madam Temporary Deputy Speaker, the Reports reflect heavily on the inefficiency of our Government, the Public Service, corruption and looting of public funds. May God help in these two Reports. Of course, the previous parliaments have also been debating such Reports.

Madam Temporary Deputy Speaker, the worst one is the loss of public money through contractors. A lot of money has been lost. This happens year in, year out, in this country. We know the public officers who are involved and who collude with the contractors, so that they are paid irregularly. There is overpayment and delay in payment, so that we have huge variations. A good example is contained in this Report of 2000/2001. There is a road that was supposed to be constructed between Kisii and Chemosit. Originally in 1986, this road was supposed to cost only about Kshs146 million. By the time it was about to be finished in 2004, it had cost this country Kshs1.8 billion. Look at that variation. It is just because at some point the contractors did not perform. The civil servants who were supposed to pay the contractors did not pay. The contractors pulled out. This Kshs1.8 billion is what I need in my constituency, so as to revive Miwani Sugar Company, so that it is not given out to the dogs at Kshs28 million. If this happened, this Report is brought to us, we talk about it and then the copies are kept in the library. That is the end of the story. What good is this Parliament doing to safeguard the country?

We should find a way of making sure that those contractors are properly punished. The officers in the Ministry of Roads or wherever they are, should be made answerable for whatever they do to this country and for making it lose a lot of money.

Madam Temporary Deputy Speaker, this Report, to some extent, details how much land the Government lost, which was later bought again by the same Government. A lot of public land during the Moi regime was given out to several individuals at no cost. Those people who got that land sold it very expensively to the private sector. However, most of it was sold back to Government organisations like the National Hospital Insurance Fund (NHIF). The NHIF bought a lot of land from individuals in this country. Those individuals got that land for free from the Government. They got it from the President and the following day, they would sell it to the National Social Security Fund (NSSF) at exorbitant prices. When the Government was giving out that land, did it not know that the NHIF, Government schools and research institutions would need land? Many research institutions lost a lot of land to individuals who were well placed in the Government.

In my constituency, I know of many schools which until today have insufficient land. I even had to tell someone who "grabbed" public land to move out of it. Good enough, that was one of the cases that were cited in the Ndung'u Report. It is my wish that the Ndung'u Report be implemented so that people who have been mentioned adversely can return public land. If they have sold the land, they should find a way of compensating the Government or the public institutions whose land they "grabbed".

Madam Temporary Deputy Speaker, some people who looted land ended up being politicians and sold the land very expensively. They got enough money to campaign and became very senior politicians in this country. Some of them became Ministers. They have become untouchable because they are in this House again. They are the ones who are supposed to implement this Report. They are the ones who are making decisions. I suggest that this country comes up with a periodical publication where the names of crooks who have made the Government lose money are published. That periodical should be distributed free of charge to the citizens of this country so that people who live with you in the same village can know that you stole public money. Some of these guys are the ones you see bragging. They have a lot of money. That is my suggestion.

Sometime back, during the Ninth Parliament, a good number of procurement officers were sacked. Although some of them were innocent, they were sacked to give room to others who are still making the Government lose money today. If you look at the money mentioned in these two Reports and in other previous reports and others which are coming, they reflect the same thing; the Government losing money through procurement and irregular payments.

There is a good example here of a case concerning pencils. The Government lost millions of shillings when pencils were procured by one of its Ministries. The cost of a pencil was supposed to be Kshs3. However, the price at which the pencils were bought was at Kshs7 a piece. There were thousands and thousands of pencils purchased. If the officer who made the Government lose money in that manner is known and he is still sitting in a public office, then is this country serious? Are we really serious? The PAC wrote a Report, it has been brought here and it will be taken to the library. Some of us will not even take a copy of the Report with us. We will leave the copies here. We will forget about them and that is the end of the story. The same officers, year in, year out, do the same thing. What is the need of spending money writing reports which do not help the Government to prosecute those who were involved in looting this country?

Madam Temporary Deputy Speaker, the amount of money that has been lost, in whatever way, could have made the various sectors of this Government grow stronger. For example, the Ministry of Agriculture. The extension wing of the Ministry of Agriculture collapsed. They do not do much. If you look at the Report, you will see that they spent millions of money in buying bicycles and motorcycles. I do not know whether they were kept in Kilimo House or if they were used anywhere. However, in my constituency, I have not seen an officer of the Ministry of Agriculture riding on a motorcycle or a bicycle. So, what was that money used for? They claim that they bought several motorcycles and bicycles.

The money lost could be used by the Government to hire more Extension Officers to start working instead of buying bicycles. We do not have enough of these officers in this country. Why buy bicycles and there is no one who will ride them? Why buy motor cycles and yet we do not have enough personnel who will use them to visit farmers?

How do we handle this situation? I have suggested that we have a periodical so that some of these people are known by Kenyans. We should give Kenyans their names after every one month, six months or one year so that they are blacklisted, sacked, prosecuted and not allowed to contest any elective posts in this country because that is how they escape the issues after they have looted. That is where they escape to. After they have looted funds, some of them end up being councillors and some end up in this House.

Madam Temporary Deputy Speaker, the misuse of Government funds does not lie with the public service only. In this country, when we talk of corruption we just have the Civil Service in mind. We have in mind, the senior officers of the Government. We have in mind the Ministers. What about the private sector? Very few people refer to the private sector when it comes to corruption. For example, in my constituency, there is Miwani Sugar Mill. On 24th, December last year, when everybody was out campaigning and looking for votes--- The whole country was preparing to vote, yet someone claimed to have gone to court, got a judgement and order for Miwani Sugar Mill to be auctioned. That was on the 24th, December last year! It was, indeed, auctioned on the 24th. So, someone decides to give a judgement in court and auctioning is done the same day. The Judiciary was involved and it is part of the public service. However, the people who were involved in this should be brought to book. This was a fraud. A company that was worth Kshs3 billion was sold out for peanuts. There is a claim that it was sold out. I think people who are doing their own businesses but are corrupt must also be brought to book. I know a few have been brought to book. We have a few cases that have been mentioned here and there. Whenever there is corruption in this country, the private sector and the Government are involved.

Some time back, a few people were kicked out of their jobs. When the civil servants are kicked out of their jobs, what happens to the people in the private sector who colluded with them?

At the Kenya Sugar Board (KSB), the Chief Executive Officer was suspended from his office. This was in November last year. That young man was very strict. He was suspended from his work for no good reason. *Kumbe* these people were preparing to auction Miwani Sugar Mill irregularly. He could not have allowed them to do that.

Madam Temporary Deputy Speaker, my plea to the Minister for Agriculture is to let that young man go back to his work. The information we have is that he blocked some people, who wanted to acquire Miwani Sugar Mill irregularly. I think these people colluded with his employer, and agreed that this young man must go so as to give them way. He was kicked out in November and on 24th December, Miwani Sugar Mill was gone. So, my plea to the Minister for Agriculture is, let the Chief Executive Officer of the KSB go back to his job, because he committed no crime.

Madam Temporary Deputy Speaker, if all the monies that have been lost through mega corruption, irregular payments and payments to contractors who did not deserve to be paid could be saved, I think most of our problems could be solved. We would find it easy to subsidise the agricultural sector. Today every farmer is crying because a bag of fertiliser is going at Kshs4,000. The actual price of that bag, without someone over-blowing its price, is Kshs2,200. The actual price of a bag of fertiliser moved recently from Kshs1,500 to around Kshs2,200, and not Kshs4,000! If the money we are throwing was to be given to the National Cereals and Produce Board (NCPD), or some other parastatal, to import fertilisers, farmers would have fertiliser at a cheaper price in this country.

Madam Temporary Deputy Speaker, with those few comments I beg to support.

The Temporary Deputy Speaker (Prof. Kamar): Thank you!

Is there any hon. Member wishing to debate?

No hon. Member wishes to contribute! I now call upon the Government Responder to respond!

Where is the Minister?

The Minister for Nairobi Metropolitan Development (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I would like to respond. I would like to pay tribute to those who have contributed to this very important Motion. I would like to take this opportunity to assure the House, and the country, that the days of Parliamentary Reports, like the one before the House, not being implemented are gone. If there are any left, they are going to be very few.

Madam Temporary Deputy Speaker, it will be recalled that shortly this House will be asked to debate amendments to Standing Orders. The proposals that we have put forward for the country regarding Standing Orders are that a special committee be established for purposes of ensuring that reports like the one before the House are implemented in a timely manner.

Therefore, if I comment briefly on the remarks by Prof. Olweny, people will parade around having participated in situations that border on criminality. That committee will be charged with the responsibility of ensuring that the Government does not go to sleep on recommendations made by the Public Accounts Committee (PAC), the Public Investments Committee (PIC) or any other committee.

I also hope it will be acceptable to the House, when the opportunity occurs to ensure that in amending our Standing Orders, we also facilitate the participation of a suitably qualified legal department in Parliament. Its work will double up as advising, not only the Committees themselves, but also seeking actual implementation of recommendations of the House.

It, therefore, gives me great pleasure to respond to sentiments of Members. Yet, again, I would like to assure them that their sentiments would be taken into account. This Report would be implemented to its full account. In future, we would ensure that recommendations coming out of Committees, hence the participation of a legal department are tailored in such a manner that no further investigation need be made, other than the actual implementation thereof, in consultation with relevant Government departments, particularly the Office of the Attorney-General.

I thank contributors to this Motion and beg to reply.

The Temporary Deputy Speaker (Prof. Kamar): May I now ask hon. Ethuro, the Mover, to respond to contributions from the Floor.

Mr. Ethuro: Madam Temporary Deputy Speaker, I want to thank Members of this House who have contributed positively and favourably to the Reports of the Public Accounts Committee.

We are all in agreement, hon. Members. I am happy that hon. Members have appreciated the role played by this Committee on their behalf. I know that there were many Members who were willing to contribute. Some Members even borrowed my initial notes. They wanted to read them, so that they could contribute effectively to the Motion. I appreciate that.

Madam Temporary Deputy Speaker, it does not augur well for the output of this Parliament, given the fact that the relevant Minister, who was present at the time I was moving this Motion is not present to see its conclusion. Even if she is not present, there should have been a deliberated designated Assistant Minister or any other Minister to respond to this Motion. With due respect to the newly appointed Minister for Nairobi Metropolitan Development and his brilliant legal mind, he does not do service to this nation by just coming here by virtue of a portfolio to reply to this Motion. This Report has made specific recommendations on the Treasury as a big responsible Ministry which grants Permanent Secretaries authority to incur expenditure. This is done in writing by the Treasury. The Treasury has failed to perform its duty. The Permanent Secretary (PS) Treasury is supposed by law, to appoint Permanent Secretaries as Accounting Officers. If I would have an opportunity to serve in this Committee, I would be chasing away those PSs who do not come with appointing letters. We can start implementing the law by ensuring that from the very beginning, these recommendations are implemented.

These Reports also made specific instructions to the Kenya Anti Corruption Commission. This House would expect the Minister for Justice, National Cohesion and Constitutional Affairs to be present or her designated substantive Assistant that would take this particular recommendations seriously. The beginning of the implementation of this Report starts from this House. That is why we, as a Parliament, are uniquely placed. We can enjoy the benefits of the Executive and the Opposition sitting together and that was then. In the new Kenya of coalition Government, we have actually done the full marriage. We are just waiting for the consummation of the marriage through some bona fide children that can claim inheritance because they were born out of a proper marriage.

Madam Temporary Deputy Speaker, after berating the Executive and, of course, the definition of our bloated Cabinet, I want to go to the specific contributions. I want to start with the contributions by Mr. Bahari when seconding the Motion. The Member made reference to the National Population and Housing Census, where specific items were bought at hundred times their value. This Committee noted that the Civil Service was hiding under the tendering procedures. I do not understand why the tendering procedures would fail their very basic principles. The whole idea of tendering is meant to attract as many suppliers as possible. We should be able to procure an item at the least competitive cost. Sometimes, you can walk into a supermarket and look at a price of items such rubber, eraser or a pencil. For instance, you find that the price of a biro pen is Kshs10. You would be surprised that when these items are tendered, that biro pen of Kshs10 would cost Kshs15. I think our Ministers have powers to act. When tender prices exceed what obtains in the markets, that tender must be revoked. I am sure that power is there. It has to be used properly.

Dr. Mwiria made very incisive contributions in terms of the environment in which Parliament and watchdog committees work, specifically targeting mega corruption. The fight against mega corruption must start from this House. I want to see Government Ministers and the Kenya Anti-Corruption Commission in future using the Reports of the PAC as the basis on which they would fight this vice. We want to see more action put to support the language of zero tolerance to corruption. We want to see more commitment to fight corruption. In fact, in the feelings of this hon. Members, it would be appear to me that, may be, we need to model something like the Serious Fraud Office, like in the United Kingdom (UK), that would be specifically

targeting certain levels of corruption. In this Report, we have discussed Government shares in Safaricom and lack of dividends. Now, we have a Safaricom Initial Public Offer (IPO) that will be concluded tomorrow. There is the question of the Mobitelea Ventures' shares and nobody is looking into it. Is this not a good basis that this Report should have looked into these issues? The Minister has, of course, conveniently decided to be away. These are the issues we are talking about. The hon. Member from Kisumu is here. I think the people of Kisumu---

Unless you are tall enough, your chances of coming to represent them in this House are extremely limited. That was why he did not speak from the Dispatch Box, but from the speaker above him.

Madam Temporary Deputy Speaker, we need an implementation Committee. It used to be in our Standing Orders. We scrapped it. It must come back as part of the Constitutional review process. This leads me to the points made by Mr. Mungatana. I want to thank him for exhausting his time. It is important to pick out those things. A constitutional review process should not be an excuse for a Coalition Government. A constitutional review, on its own, merits immediate attention, whether we are in a coalition, or otherwise.

We have nice things like zero-tolerance to corruption and the constitutional review process. We will not just get lost in the good work of resettling the Internally Displaced Persons (IDPs)! I am not under-estimating the value, but I can see a possibility of certain major issues being forgotten just because there are things that are more convenient. Kenyan politicians are very good at that. If they were not, we could have resolved all the matters that came to haunt us many, many years ago. When you raise the profile of about Kshs1.8 billion spent on a road that is yet to be completed - the Kisii-Chemosit Road---

Madam Temporary Deputy Speaker, the road from Kapenguria to Lodwar in Turkana only requires half that amount. We will have tarmac on that road! The Kisii-Chemosit Road requires that same money or less. The initial cost was Kshs146 million and it would have been completed. The road hon. Elias Mbau was talking about today is only 34 kilometres. If you even allocated a conservative estimate of Kshs10 million per kilometre, you only required Kshs340 million and that road would have been finished in 2006/2007. That is when it was supposed to have been done.

Madam Temporary Deputy Speaker, in the Report, there are cases of impunity. Hon. Mungatana made a specific call for action! If all of us took our responsibilities seriously, this country would not require more laws! This country requires more management of the existing framework! It requires supervision! You pay Kshs26 million to someone to supervise, but nothing is done! There is something wrong with us!

Prof. Olweny commented about corruption in the private sector. This House is at liberty to discuss any form of corruption, but the big thing about the Public Accounts Committee (PAC) is that it has a responsibility to the taxpayers who elected us. That is why we are looking at corruption in the public sector. But he has invited all of us to think about it. Who is that Kenyan who is very good, offers exemplary leadership in the private sector and does proper accounting? But the same Kenyan who is working at the Kenya National Examination Council cannot do the same. His or her work cannot just add up! The difference is the working environment. It is not the Kenyan!

Madam Temporary Deputy Speaker, I have had the opportunity to serve in both sectors. We go to the same schools. We learn from the same teachers. We can work if we can create a conducive environment in the public sector that makes productivity an issue. It is not enough to adopt performance contracting and bringing the President to see Ministers signing them. Then, once a year, we go on with the public ritual of naming Ministries which have performed better. Maybe, when your Ministry is at the bottom, you should take a reduction in your salary. That way, you will know that if you do not perform, you should go home!

Members have raised the following question: Is the African in Kenya different from the African in Tanzania? In Tanzania, after being accused of corruption, a Minister and a Prime Minister resign. But, in Kenya, we act with impunity. This House has people whose record you

cannot really trust.

I did not say it. It was said just this afternoon. I can only confirm. We have made recommendations that so and so should not hold a public office. But when appointments are made to the public offices, their names will appear very prominently. They are even displayed. Even when we go to our churches with ill-gotten wealth, we are always the chief guests. Even the local priest will bow to you for God has blessed you with sufficient riches. You are just giving back what God has provided. We saw it just the other day with regard to the Grand Regency Hotel.

Madam Temporary Deputy Speaker, with those remarks, I want to thank each and every Member who has shown interest in this Report. Really, the words used by hon. Mungatana in appreciating our work--- I really want to think that when you are 11 Members and only three survived, that rate of attrition is extremely high! It is over 70 per cent. It means that the good work that has been dedicated to particular individuals does not get recognition back home.

Since the Speaker has started this tradition, I do not want it to be *ad hoc*. In fact, even today, Madam Temporary Deputy Speaker should have used Standing Order No.1 to invoke live coverage. That way, Kenyans will know that the PAC was trying to save billions of shillings on their behalf. That way, I will not be working so hard next time to retain my seat. At this rate, you never know who will come and who will not come.

So, I think the recommendation for live coverage, particularly for Committee work, cannot be gainsaid. I know that the Speaker is doing something about it. We need press coverage, not only in the Chamber, but in the Departmental Committees. That will not only be just for our publicity, but it will be another serious deterrent to anybody misappropriating public funds. When you know that you are going to appear before the PAC, you will not want to run that risk. That is because you will be grilled in public. The whole nation will be watching. I can assure you that these days, Kenyans love watching television. They love watching the proceedings of Parliament. They will always give you instant feedback. I am sure that, at that stage, if there was a recall clause in the Constitution, maybe, many of us would have to go home.

With those many remarks, I beg to move.

(Applause)

The Temporary Deputy Speaker (Prof. Kamar): Thank you, hon. Members. Before I put the Question, I would like to echo the sentiments of the Mover. The absence of relevant Ministers when we are debating such important Motions only reduces the importance of the debates. May I, therefore, call upon the Ministers to, please, be present when we are debating Motions that are relevant to them.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, we have concluded the business as it appears on the Order Paper this afternoon.

The House is, therefore, adjourned until tomorrow Wednesday, 23rd April, 2008 at 9.00 a.m.

The House rose at 5.45 p.m.